

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF OHIO  
EASTERN DIVISION

|                            |   |                                       |
|----------------------------|---|---------------------------------------|
| TONY FISHER, aka KELLIE    | ) |                                       |
| REHANNA,                   | ) | CASE NO.: 4:19-CV-1169                |
|                            | ) |                                       |
| Plaintiff,                 | ) |                                       |
|                            | ) | JUDGE SARA LIOI                       |
| vs.                        | ) |                                       |
|                            | ) | <u>NOTICE OF FILING THE DEPOSITON</u> |
| FEDERAL BUREAU OF PRISONS, | ) | <u>OF JANE BARNES</u>                 |
| <i>et al.</i> ,            | ) |                                       |
|                            | ) |                                       |
| Defendants.                | ) |                                       |

Plaintiff, Tony Fisher, aka Kellie Rehanna, by and through counsel, hereby notifies this Court and Defendants that the deposition of Jane Barnes that was taken on July 30, 2021 (attached hereto) has been filed in this case.

Respectfully submitted,

/s/Edward A. Icove

Edward A. Icove (0019646)

Icove Legal Group, Ltd.

Terminal Tower, Ste. 3220

50 Public Square

Phone (216) 802-0000; Fax (216) 802-0002

[ed@icovelegal.com](mailto:ed@icovelegal.com)

Attorney for Plaintiff Tony Fisher,  
aka Kellie Rehanna

**CERTIFICATE OF SERVICE**

On August 27, 2021, this document was filed electronically. Notice of this filing will be sent to all parties by operation of the Court's electronic filing system. Parties may access this through the Court's system.

/s/ Edward A. Icové  
Edward A. Icové

IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF OHIO  
EASTERN DIVISION

**ORIGINAL**

Tony Fisher, aka  
Kellie Rehanna,

Plaintiff,

vs.

Federal Bureau of  
Prisons, et al.,

Defendants.

Case No. 4:19CV1169  
Sara Lioi, J.

Deposition of Jane Barnes, a witness herein,  
called on behalf of the plaintiff for oral  
examination, pursuant to the Federal Rules of Civil  
Procedure, taken before Karen A. Toth, Notary Public  
in and for the State of Ohio, pursuant to notice,  
via Zoom, on Friday, July 30, 2021, commencing at  
9:24 a.m.

1 APPEARANCES:

2 On behalf of the Plaintiff:

3 Ed Icove, Esq.  
4 Icove Legal Group LTD  
5 Terminal Tower  
6 500 Public Square, Suite 3320  
7 Cleveland, Ohio 44113  
8 216-802-0000

9 On behalf of the Defendants:

10 Gary Feldon, Esq.  
11 Joshua Gardner, Esq.  
12 United States Department of Justice  
13 Civil Division, Federal Programs Branch  
14 1100 L Street NW  
15 Room 11502  
16 Washington, D.C. 20005  
17 202-305-7583

18 - - -

19 Also present:

20 Kellie Rehanna

21 - - -

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25

INDEX

WITNESS:

CROSS

Jane Barnes

by Mr. Icove

4

- - -

1 JANE BARNES

2 Of lawful age, being first duly sworn, as  
3 hereinafter certified, was examined and testified as  
4 follows:

5 CROSS-EXAMINATION

6 By Mr. Icove:

7 Q Good morning, Ms. Barnes. My name is Ed Icove  
8 and I represent Kellie Fisher, also known as  
9 Kellie Rehanna, who for the purposes of this  
10 deposition I will be referring to as Kellie.  
11 And this is in her case against the BOP and  
12 the Federal Correction Institution Elkton, in  
13 Case Number 19CV1169, which is presently  
14 pending in the Northern District of Ohio,  
15 Eastern Division. Today's date is July 30,  
16 2021.

17 Have you ever testified before by  
18 deposition or in court?

19 A No.

20 Q Let me give you a little background. Your  
21 testimony today, as you know, is under oath.  
22 So it's the same as if you were in court  
23 except there isn't any judge present. And  
24 your counsel may object to a question for the  
25 purposes of this deposition, and since there

1 is no judge any objection will have to be  
2 considered, if necessary, by the court at a  
3 later date.

4 A Should I go on to answer?

5 Q Well, is that okay? Do you understand that?

6 A Yes.

7 MR. FELDON: Unless I instruct you  
8 not to answer you'll go ahead and answer.  
9 Yes.

10 Q Right. I was just getting to that. If  
11 counsel objects you still must answer the  
12 question to the best of your ability, unless  
13 he instructs you not to answer.

14 A Okay.

15 Q And the only things he would instruct you not  
16 to answer would be matters of privilege, which  
17 we're not going to ask you any questions as to  
18 privileged communication. Is that fair?

19 A Yes.

20 Q Are you still working at Elkton?

21 A In a different role. I actually retired and  
22 then came back as a Civil Service employee.

23 Q And when did you come back?

24 A September of 2019.

25 Q And did you have an opportunity to work with

1 Kellie?

2 A Since I've been back or previously?

3 Q Previously. I'm sorry.

4 A Yes. Previously.

5 Q In what capacity was that?

6 A I was the health service administration.

7 Q And how long did you hold that position?

8 A From 2013 to 2019.

9 Q And could you give us a little background as  
10 to your education?

11 A Sure. I have -- I'm a physician assistant by  
12 trade. Obviously high school, college  
13 graduate, Master's in my family physician  
14 assistant studies, prior Air Force, and then I  
15 did a lateral service transfer to the Public  
16 Health Service and then came here to FCI  
17 Elkton.

18 Q How long were you in the Air Force?

19 A Ten years.

20 Q Did you get any specific -- by the way, thank  
21 you for your service.

22 A Thank you.

23 Q Did you get any specific training in the Air  
24 Force regarding medical issues?

25 A In what capacity?



1 Q Yeah. Well, let me just -- let me just back  
2 up. Did you deal with people at a hospital or  
3 a clinic when you were in the Air Force or did  
4 you have some other --

5 A Yes. I was a medic and then I got accepted  
6 into PA school. And then I was in school for  
7 several years and then I was a PA. And then  
8 that was for four years and then I transferred  
9 here into the Public Health Service.

10 Q And where did you get your PA at?

11 A Through the University of Nebraska Med School  
12 with the military.

13 Q Is there a certification for that particular  
14 position?

15 A For health service administrator, no.

16 Q What about PA?

17 A That's what I was hired back as, is a  
18 certified PA.

19 Q Got you.

20 A But that's not what my role was as the  
21 administrator.

22 Q Got you. Thank you.

23 A I'm strictly -- strictly an administrator.

24 Q So as the administrator you don't have any  
25 relationship with any of the inmates regarding

1 medical aspects of a case?

2 A No. I'm kind of -- I was more like a liaison,  
3 so to speak. You know, I have patients who  
4 were having concerns, I would address those  
5 concerns, ensure proper care was given, those  
6 kind of things. Scheduling.

7 Q Even though you're Civil Service and you have  
8 those protections are you aware that your  
9 testimony today is considered to be protective  
10 activity under federal law?

11 MR. FELDON: Objection. Calls for  
12 a legal conclusion. The witness can answer if  
13 she knows.

14 A As a Public Health Service officer generally  
15 I'm protected with that. And that was in a  
16 different role than where I'm at now as well.

17 Q Right. Are you aware that federal law over  
18 and above that considers your testimony and  
19 participation in this case to be protected  
20 activity?

21 MR. FELDON: Objection. Lacks  
22 foundation and calls for a legal conclusion.  
23 You can answer if you know.

24 Q If you don't know -- you can only testify as  
25 to what you can observe, remember and relate

1 to us, and if you don't know, you don't know.

2 That's a fair response if you don't.

3 A I would say I don't know 100 percent.

4 Q You are aware, however, that neither the  
5 government nor anyone else can retaliate  
6 against you for testifying or participating in  
7 this case in any manner?

8 MR. FELDON: Same objection.

9 A Agree. Yes.

10 Q Could you briefly state to us the involvement  
11 you had with Kellie regarding her treatment  
12 plan and her treatment?

13 A Her treatment plan obviously would fall along  
14 the lines with the provider and the physician  
15 and basically following the guidelines we  
16 have. And my role with her was mainly to see  
17 which direction do we go next, so to speak,  
18 each time she got to another level.

19 Q Was she cooperative with you while you were  
20 treating her?

21 A Yes.

22 Q And were you supportive of her request for  
23 gender-affirming surgery?

24 MR. FELDON: Objection. Vague as  
25 to the word supportive.

1 Q You need to answer the question. I'm sorry,  
2 Ms. Barnes.

3 A Okay. As far as supportive, yes, finding the  
4 information I needed to pursue that request  
5 for her.

6 Q Were you involved in any decisions of her care  
7 as it relates to her gender-affirming surgery?

8 A No.

9 Q How long did you work approximately with  
10 Kellie?

11 A From the time that she would have arrived  
12 until my retirement. And she still is here in  
13 the institution, I just have not had  
14 one-on-one visits or anything with her. I've  
15 seen her but that's it.

16 Q So if I let you know that she was in the  
17 institution in 2015, is it fair to say that  
18 you treated her for approximately four years?

19 MR. FELDON: Objection. Lacks  
20 foundation, also just vague. Can you restate?

21 MR. ICOVE: She didn't have a  
22 problem with it. I know you did, Gary, and  
23 that's fine.

24 Q Ms. Barnes, do you have a problem with that  
25 question?

1 A Well, I didn't treat her.

2 Q Okay.

3 A I was never a provider for her, I was strictly  
4 an administrator.

5 Q Okay. And so you didn't give her any -- you  
6 were involved with her treatment plan  
7 solely --

8 A Yes.

9 Q -- solely as a -- more of a  
10 counselor/administrator role?

11 A Not even as a counselor but more of a  
12 coordinator of care.

13 Once the providers would come to a  
14 decision -- I mean, it's in general for  
15 anyone -- a decision and then you go through  
16 the guidelines, and if we need additional  
17 direction from there that's where I would come  
18 in.

19 Q Got you. Have you had an opportunity to look  
20 at any documents prior to your testimony  
21 today?

22 A I was sent two exhibits.

23 Q And why don't we look at Exhibit 3, if you  
24 would please.

25 A Okay.

1 Q And then we'll look at the other exhibit  
2 shortly.

3 A Okay.

4 Q Can you identify Exhibit 3, please?

5 A It's an administrative note I wrote on January  
6 19th of 2018.

7 Q Was this note prepared in the course of  
8 regular conducted business at Elkton?

9 A Yes, during normal duty hours.

10 Q And likewise, was it kept in the ordinary  
11 course of regular conducted business at  
12 Elkton?

13 MR. FELDON: Objection to the fact  
14 that term is being used in its technical  
15 sense, calls for a legal conclusion. If you  
16 know the answer, you can answer.

17 Q Do you want me to --

18 A Yes, this is a normal administrative note  
19 explaining where we are on the treatment of  
20 the patient.

21 Q And it's kept in the ordinary regular course  
22 of business at Elkton?

23 MR. FELDON: Same objection.

24 A And I would still agree, it's an  
25 administrative note from the administrator.

1 Q Was this note a regular practice of your  
2 position at Elkton?

3 MR. FELDON: Objection. Vague.

4 A I would agree that I'm not sure what you mean.

5 Q Okay. I know your attorney didn't. I'm more  
6 than happy.

7 Your attorney is making objections for  
8 the record. He's really not allowed to make  
9 speaking objections, so just because he says  
10 something doesn't mean that you should  
11 necessarily follow what he says, because the  
12 conversation is between you and me. He's not  
13 sitting there as a mushroom or a toad or  
14 anything, but -- so I'll just restate it.

15 Was this note a regular practice of  
16 your position at Elkton as an administrator?

17 MR. FELDON: Same objection.

18 A As I said previously, yes, this is an  
19 administrative note as an administrator, yes.  
20 It is not an uncommon note that I would write.

21 Q Do you recall who at region you discussed  
22 Kellie's case with?

23 MR. FELDON: Objection. Lacks  
24 foundation.

25 A No, I do not.

1 Q Do you recall the substance of the discussion?

2 A As an administrator I talk many times with  
3 regional staff on numerous occasions in  
4 generalizations. So I don't even have a  
5 specific conversation or even a specific  
6 person.

7 The information based on this note was  
8 because Kellie continually said she knew of  
9 other inmates that were actually already  
10 undergoing that surgery. And I was trying to  
11 find out is that true, because she didn't feel  
12 that I was being honest with her.

13 Q Right. So did --

14 A So --

15 Q I'm sorry. Go ahead.

16 A So I was just trying to gather information  
17 based on what Kellie was trying to tell me  
18 what was the case and do we go further, is it  
19 being done, where do we go from here.

20 Q Right. And she was being cooperative with you  
21 during this process?

22 A Yes.

23 Q Did region confirm that there were no sexual  
24 reassignment surgeries being done at that  
25 time?



1 A I don't believe I had the full conclusion that  
2 there had not been at that particular time  
3 until I actually got some feedback from  
4 central office. And that is what the note is  
5 about.

6 Q Okay. And you'll have to enlighten me. What  
7 is central officer?

8 A We have a regional office over the northeast  
9 region and then central office is over the  
10 entire Bureau of Prisons. So when we do any  
11 kind of a medical elective type procedure  
12 generally that requires a higher level of  
13 approval. And those are my -- that would be  
14 my chain of command.

15 Q Right. So I'm looking at this note and it  
16 says that there was confirmation that there  
17 was no sex reassignment surgeries being done  
18 at this time. That was based upon  
19 communications you had with central?

20 A Correct. Well, both. Between -- several  
21 discussions over several months as well as  
22 central office, yes.

23 Q So those discussions would be with region as  
24 well as central?

25 A Correct.

1 Q And would central or did central and region  
2 inform you that at this time or the time that  
3 you wrote the note that gender-affirming  
4 surgery was an elective medical procedure  
5 rather than a medical necessity?

6 A Yes, that is why I wrote the note.

7 Q And so it's fair to say that your reference to  
8 the chief medical officer, how does that come  
9 into play in this particular note; if you  
10 recall?

11 A That would be the central office staff.

12 Q So your reference to the chief medical officer  
13 wasn't the chief medical officer at that time,  
14 it was the chief medical officer at the  
15 central staff?

16 A The chief medical officer position or whoever  
17 was acting at the time. Many people. If  
18 someone is on vacation you have someone  
19 acting. I mean, it's not -- I don't recall  
20 this specific conversation or even  
21 specifically who I spoke with, because, again,  
22 as my role is an administrator it was not  
23 uncommon for me to talk to various folks  
24 regionally or at central office about numerous  
25 different inmates, not just -- I mean, and

1           when I called it was never specifically about  
2           Kellie, it was generalizations on direction of  
3           sex reassignment surgery and treatment for  
4           transgenders.

5                       So, yeah, the chief medical officer was  
6           the position of the person I spoke with, but I  
7           don't recall who that would have been,  
8           honestly.

9   Q       And that was at either region or central?

10 A       Chief medical officer is a central office  
11       position.

12 Q       Okay. Well, are we -- we're not referring to  
13       the chief medical officer at Elkton, are we?

14 A       No. No, this is for -- these decisions are  
15       above FCI Elkton.

16 Q       So the information from this note was not  
17       obtained in any way from Dr. Allen; is that  
18       fair?

19 A       Doctor who?

20 Q       Dr. Allen?

21 A       He held that position, but I don't know if it  
22       would have been him directly or an acting at  
23       the time.

24 Q       So you don't recall specifically talking with  
25       him?

1 A No. I mean, I had many conversations over the  
2 years but I don't recall specifically about  
3 this conversation. And he had many actings as  
4 well.

5 Q And why would you need acting chief medical  
6 officers?

7 A If there is a concern or a problem somewhere.  
8 So business goes on every day. Just as if my  
9 clinical director is not here I have an acting  
10 physician who is the clinical director.

11 As the administrator, if I wasn't here  
12 I had an acting administrator to make sure my  
13 role and my duties were completed that day.  
14 That's a general, I don't want to say  
15 requirement, but an expectation.

16 If you're between positions, if someone  
17 is on vacation or out on emergency leave. You  
18 know, you have no idea.

19 Q Thank you very much. So there is always  
20 somebody there to -- if you're on vacation or  
21 doing something else to step in your shoes?

22 A Correct.

23 Q Let's look briefly at Exhibit 9, if you would  
24 please.

25 A Okay.

1 Q Can you please go through this particular --  
2 it's three pages I think. Can you go through  
3 these documents with us so that we know what  
4 they are and how they were generated?

5 A You said three documents? I only brought the  
6 top sheet because I thought it was -- when I  
7 printed it it showed the top sheet and has a  
8 back sheet that says rendering attachment, and  
9 then the same note from Exhibit 3.

10 Q Okay.

11 A That's all I have.

12 Q So you have two pages. Well, that's all there  
13 are. There are three documents. You just  
14 described the three documents. And if you  
15 look at the corner it says Fisher 002651,  
16 Fisher 002652, and Fisher 002653. Are those  
17 the documents?

18 A I have one and two but I did not bring the  
19 third because I thought it was a repeat of  
20 Exhibit 3. It looked exactly the same to me.

21 MR. ICOVE: Okay. Gary, for the  
22 record without handing her that document  
23 again, would you stipulate it's the same  
24 document as Exhibit 3?

25 MR. FELDON: Yeah. I'm looking at

1           it now, and it appears to be the same document  
2           as Exhibit 3.

3     A       Okay. I did not bring that.

4     Q       For the record, your counsel and I are going  
5           to agree that 002653 is the same as Exhibit 3.

6     A       Okay.

7     Q       And based upon your recollection you believe  
8           that's correct, isn't it?

9     A       Yes.

10    Q       And let's look at your cover sheet or your  
11           cover email, which is the first page. Can you  
12           describe why you sent that and what was going  
13           on?

14                   MR. FELDON:           Objection. Compound  
15           question. Vague.

16    Q       Did you send that document on or about  
17           February 12th of 2018 to John Dunlop, Lori  
18           Hunter and Shelly Kennedy?

19    A       Yes.

20    Q       Does that appear to be an authentic copy of  
21           that document?

22    A       Yes.

23    Q       And page 2 and page 3 also are authentic, to  
24           the best of your knowledge and belief?

25    A       I don't know what page 2 is.

1 Q Okay. It says rendering attachment. I don't  
2 know what that is either.

3 A Yeah, I have no idea.

4 Q Okay.

5 A That may be the search for IT to find the  
6 email.

7 Q Okay.

8 A But I have no idea. I've never seen that  
9 before.

10 Q I hadn't either, that's why I asked.

11 So Exhibit 3, which is the third page  
12 of this document, is the attachment that goes  
13 with this particular email; is that fair to  
14 say?

15 A Yes.

16 Q And can you go through that particular email  
17 and explain to me what was going on, what this  
18 back and forth was about?

19 MR. FELDON: Objection. Vague.

20 Q Go ahead.

21 A I was contacted by the region to -- regarding  
22 Kellie's BP10 and the direction of where to go  
23 with that. And so that was me merely sending  
24 an email to our clinical director, Dr. Dunlop.  
25 Lori Hunter at the time was an acting

1 assistant health service administrator, as  
2 well as Shelly Kennedy, she's our IOP but she  
3 was also an acting administrator because I was  
4 down a couple positions. So they were  
5 assisting both part time in that role.

6 And the email was to let them know we  
7 needed to talk the following day and  
8 determine, you know, as far as submitting  
9 Kellie for the sex reassignment surgery and  
10 which direction we would go with that.

11 Q And what is BP10, for my knowledge?

12 A It is an inmate's ability to what they -- what  
13 we call file or argue against perhaps, like as  
14 far as medically going, maybe their medical  
15 care. If it's a diet. You know, I mean, it  
16 could be a variety of things. Whatever they  
17 are not happy about.

18 Q Do you recall what it was about here?

19 A I'm assuming -- I don't -- I never had the 10,  
20 but I'm assuming it's the sex reassignment  
21 surgery.

22 Q Are those your notes there where it says,  
23 "Ok... Well got called on this gem by region;"  
24 Is that -- are those your notes there?

25 A Yes.



1 Q And that goes all the way down and it says,  
2 "Then, submit a packet to the Transgender  
3 Committee"?

4 A Correct.

5 Q That whole section you wrote.

6 So can you review -- it says, "Gonna  
7 have to review this case and do one of the  
8 following." Can you explain what the two  
9 options were?

10 A For any kind of consultation for surgeries  
11 generally we submit those for electronic  
12 medical records, and that goes through a  
13 utilization review committee for approval,  
14 disapproval, a referral to the regional staff.  
15 So that was one option. And the decisions --  
16 like if it's an immediate life-threatening  
17 acute -- things that cannot wait, the  
18 institution has the decision to make that. If  
19 it's considered elective in any sort, meaning  
20 potential gall bladder, I need a hip  
21 replacement, knee replacement, a hernia; those  
22 -- you know, those are all considered elective  
23 surgeries and those would go to the regional  
24 level for approval.

25 Q So if I --

1 A And then --

2 Q Go ahead, I'm sorry.

3 A Finally, when it says, "Then, submit a packet  
4 up to the Transgender Committee," because with  
5 the Transgender Committee they actually have a  
6 packet that goes through the warden that is  
7 sent up requesting and listing all the various  
8 reasons. You know, at what point the patient  
9 -- because it's much more than just medical,  
10 you know, the patient's met all the various  
11 criteria. And that's what -- we had to decide  
12 which way we were going to go with it.

13 Q And do you recall what was done in this  
14 particular case?

15 A When I looked at the charts the next day  
16 Ms. Hunter had done a consultation for -- in  
17 the electronical medical records for the sex  
18 reassignment surgery.

19 Q Was that part of the packet that was submitted  
20 to region?

21 A No. Well, I mean it's an electronic medical  
22 record so that automatically goes up through  
23 to the regional medical director or whoever is  
24 acting in that role.

25 Q What is in the packet; if you know?

1 A It's not a packet -- that doesn't -- that's  
2 just a consultation in -- BEMR is considered  
3 our electric medical records, it's the Bureau  
4 of Electronic -- so in BEMR if we click refer  
5 it's an automatic referral notification to  
6 that in box. It's not a packet.

7 The last sentence there is talking  
8 about a packet that actually is submitted from  
9 here at Elkton by the warden's areas, by the  
10 warden and executive staff to the Transgender  
11 Committee. It's not even in the electronic  
12 medical records.

13 Q And do you know what the packet consisted of  
14 in Kellie's case?

15 A No. Because what we did was the referral in  
16 BEMR and then waited until we had further  
17 direction. So there wasn't a packet at that  
18 time until maybe possibly later. I'm not  
19 sure.

20 Q But based on your testimony today you didn't  
21 submit that packet, that would be done through  
22 the warden's office?

23 A Correct.

24 Q And Melissa Fisher, is she part of the region?

25 A Yes. She worked at the region at the time.

1 Q And, so her comment, "Can you tell me if  
2 surgery was submit to the BOP TCCT for  
3 review," that email that you sent was a  
4 response to her inquiry?

5 A Yes.

6 Q Are you familiar with hormone confirmation for  
7 those who want gender-affirming surgery?

8 A I'm not sure what you mean by hormone  
9 confirmation.

10 Q Okay. Do you know what hormonally confirmed  
11 means?

12 A Medically that's not a term we use so I'm not  
13 sure.

14 Q Okay. Well, let me ask it in a different way.  
15 Thank you.

16 When you were working with Kellie did  
17 she have the hormones and secondary  
18 characteristics of an adult female?

19 A Yes. Well, I should say she was taking  
20 hormones and had various characteristics.

21 Q Okay. And what characteristics were those,  
22 that you recall?

23 A She pulls her hair up in a ponytail often,  
24 wears makeup, eye liner, would wear a bra.  
25 Those kind of things.

1 Q If Kellie is denied gender-affirming surgery  
2 or it's further delayed how do you feel this  
3 will affect her?

4 MR. FELDON: Objection. Calls for  
5 speculation.

6 A I would agree that would be total speculation  
7 because I have no idea. I'm not in a position  
8 to make that kind of a decision or comment.

9 Q Did you sign off on the gender-affirming  
10 surgery request for Kellie that was sent to  
11 the BOP in approximately April of 2018?

12 A I'm not -- I was -- the agency is not on the  
13 -- there is not a place for me to sign, or I'm  
14 not part of that -- the trail of who is  
15 required to sign on that.

16 Q Did you support her request for  
17 gender-affirming surgery?

18 A Yes, that's why things were submitted.

19 Q Do you believe that gender-affirming surgery  
20 is a medical necessity for Kellie?

21 MR. FELDON: Objection. Calls for  
22 -- well, objection to form. You can answer.

23 Q Why or why not is fine.

24 A Basically I still consider it elective,  
25 because just as I said previously, elective

1 surgery is a hernia that needs repaired but  
2 it doesn't mean it needs done today. Knee  
3 replacement, things like that. Versus you  
4 need bypass and it needs done two minutes ago.

5 So anything that is not an absolute  
6 medical emergency at that time is considered  
7 an elective surgery medically speaking.

8 Q So if the medical problem didn't require  
9 immediate attention because it was an  
10 emergency you would consider it to be  
11 elective?

12 A Correct. Yeah, same thing if -- I mean, that  
13 goes for almost -- a variety of things.  
14 Thyroid surgeries. I mean, if it -- rarely,  
15 like would a thyroid surgery becomes a medical  
16 necessity today. And a hernia, if it became  
17 incarcerated, then becomes a medical  
18 necessity.

19 Q Do you believe that Kellie would benefit from  
20 a gender-affirming surgery?

21 MR. FELDON: Objection. Calls for  
22 speculation.

23 A I don't -- that's kind of out of my scope.

24 MR. FELDON: Counsel, I'm going to  
25 note it's 10:00 and we actually started this

1 witnesses's deposition a little early. So we  
2 have Lori Hunter coming up next.

3 MR. ICOVE: That's fine. That  
4 was my last question. Thank you, Gary.

5 MR. FELDON: No questions for me.

6 MR. ICOVE: I appreciate it.  
7 Okay.

8 We started her -- just for the  
9 record -- just for the record, we started hers  
10 a little bit late. I'm not going to quibble  
11 over a few minutes one way or the other.

12 Q Ms. Barnes, this concludes your deposition.  
13 And your counsel will instruct you as to  
14 whether you'll read the deposition or whether  
15 you waive.

16 MR. FELDON: We'll read and sign.

17 (Deposition concluded at 10:01 a.m.)

18 (Signature not waived.)

19 - - -  
20  
21  
22  
23  
24  
25

## SIGNATURE PAGE

Case Name: Tony Fisher, etc. vs. Federal Bureau  
of Prisons, et al.

Case Number: 4:19CV1169

Deponent: Jane Barnes

Date: Friday, July 30, 2021

To the Reporter:

I have read the entire transcript of my  
Deposition taken in the captioned matter or the same  
has been read to me. I request that the following  
changes be entered upon the record for the reasons  
indicated.

I have signed my name to the Errata Sheet and  
the appropriate Certificate and authorize you to  
attach both to the original transcript.

Jane Barnes

Subscribed and sworn to before me this

\_\_\_\_\_ day of \_\_\_\_\_, 2021.

Notary Public

My commission expires:\_\_\_\_\_.

FINCUN-MANCINI -- THE COURT REPORTERS

(216)696-2272



1 I have read the foregoing transcript from page  
2 1 through page 17 and note the following  
3 corrections:

| 4 PAGE-LINE | REQUESTED CHANGE | REASON FOR CHANGE |
|-------------|------------------|-------------------|
|-------------|------------------|-------------------|

5

6

7

8

9

10

11

12

13

14

15

16

17

18

19

20

21

22

23

24

25

Jane Barnes

Date

PINCUN-MANCINI -- THE COURT REPORTERS

(216)696-2272

1 State of Ohio, )  
2 County of Cuyahoga, ) SS: CERTIFICATE

3 I, Karen A. Toth, Notary Public in and for the  
4 State of Ohio, duly commissioned and qualified, do  
5 hereby certify that the within named witness,  
6 Jane Barnes, was by me first duly sworn to  
7 testify the truth, the whole truth, and nothing but  
8 the truth in the cause aforesaid; that the testimony  
9 then given by her was by me reduced to  
10 stenotypy/computer in the presence of said witness,  
11 afterward transcribed, and that the foregoing is a  
12 true and correct transcript of the testimony so  
13 given by her as aforesaid.

14 I do further certify that this deposition was  
15 taken at the time and place in the foregoing caption  
16 specified and was completed without adjournment

17 I do further certify that I am not a relative,  
18 counsel, or attorney of either party, or otherwise  
19 interested in the event of this action.

20 IN WITNESS WHEREOF, I have hereunto set my  
21 hand and affixed my seal of office at Cleveland,  
22 Ohio on this 5th day of August, 2021.

23 *Karen A. Toth*

24 Karen A. Toth, Notary Public in  
25 and for the State of Ohio.  
My Commission expires May 6, 2023.



1 I have read the foregoing transcript from page  
2 1 through page 17 and note the following  
3 corrections:

| 4 PAGE-LINE | REQUESTED CHANGE | REASON FOR CHANGE |
|-------------|------------------|-------------------|
|-------------|------------------|-------------------|

24 /s/ Jane M. Barnes, PA-C

8/5/21

25 Jane Barnes

Date

FINCUN-MANCINI -- THE COURT REPORTERS

(216)696-2272